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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11752-2019 (O&M)
Date of Decision:11.12.2023

SAKSHI BABBAR

..... Petitioner

Versus

RESERVE BANK OF INDIA AND ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Rakshit Gupta, Advocate with
Mr. Brij Sharma, Advocate
for the petitioner.

Mr. Deepak Suri, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to issue appointment letter for the post of Office Attendant under PwD (OH) category.

2. The respondent-Bank by advertisement invited applications for 526 posts of Office Attendant in various offices of the Bank. In the advertisement 8 seats were earmarked for PwD (OH) category candidates. Out of aforesaid 8 seats, 1 seat was meant for Chandigarh and Shimla Office. The petitioner applied under PwD (OH) category with respect to seat at Chandigarh/Shimla. The petitioner appeared in the exam, however, her Biometric data could not be obtained because of her physical condition. There was physical verification of admit card and other documents of the petitioner and she was permitted to participate in

the exam. The petitioner cracked the exam, however, she was not issued appointment letter because despite being present on 4 occasions, she failed to give her Biometric data.

3. Learned counsel for the petitioner submits that petitioner is suffering from 50% right arm hemipraxis and because of said disability, the petitioner cannot give her thumb impression through Biometric machine, however, she had given her thumb impression on a piece of paper. The respondent despite getting thumb impression on a piece of paper have denied the opportunity to petitioner to serve with the respondent-Bank.

4. Per contra, learned counsel for the respondents submits that it is factually correct that petitioner was permitted to participate in exam on the basis of physical verification of data, however, she was bound to give her thumb impression through Biometric machine. The respondent-Bank as per advertisement is bound to capture Biometric data which is possible through thumb impression on the available machine. The petitioner was given four opportunities, still she is unable to give her thumb impression on machine.

5. I have heard the arguments of both sides and with the able assistance of learned counsels perused the record.

6. The conceded position emerging from the record is that the petitioner is suffering from physical disability. She is having certificate issued by the Competent Authority and on the basis of certificate, she participated in the selection process. The respondent in the advertisement had reserved 22 seats for PwD candidates and out of 22 seats, 8 seats are earmarked for PwD (OH). The petitioner had applied under PwD (OH)

category and she has cleared the exam. She is sole successful candidate in the said category. The respondent is not disputing the fact that petitioner participated in the examination process and has successfully cleared it. The respondent is further conceding that physical verification was conducted and there is no doubt about the identity of the petitioner. The respondent is denying benefit of appointment on the sole ground that respondent is unable to capture Biometric data i.e. thumb impression of the petitioner. The approach of the respondents seems to be pedantic, mechanical as well as harsh. The respondents on the one hand reserved 22 seats for PwD category candidates which included 8 seats for PwD (OH) candidates and on the other hand, the petitioner has been denied substantial benefit on the sole ground that respondent is unable to capture her Biometric data. The respondent is not controverting the fact that the petitioner 4 times had appeared before respondent and she had given her thumb impression on a piece of paper. The intent and purport of obtaining thumb impression through electronic mode is to ascertain identity of the candidate and confirm his/her genuineness. If the things are verified by physical form, it seems to be highly pedantic and unreasonable on the part of respondent to deny benefit on the sole ground that they are unable to capture thumb impression through electronic mode. It is not case of the respondent that petitioner is not coming forward or she is not ready to give her thumb impression. If through electronic mode, the respondents are unable to capture thumb impression of the petitioner, the petitioner cannot be denied substantial benefit.

7. It is a settled proposition of law that no one can be asked to do something which he is unable to do or it is impossible for him to do.

The law does not require anything to be done which is humanly impossible. The machines are meant to aid and assist the human beings and not to supplant their mind and active involvement. The act of respondent is further contrary to intent and purport of the Right of Persons with Disabilities Act, 2016.

8. In the wake of above discussion and findings, the present petition deserves to be allowed. Accordingly, the present petition is allowed with a direction to respondents to issue appointment letter within 4 weeks from today. In case, the respondent fails to comply with this order, the petitioner shall be at liberty to file an appropriate application under Article 215 of the Constitution of India.

(JAGMOHAN BANSAL)
JUDGE

11.12.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>